

## Chapter 3

### PROCESSES

#### Section 3.1 General

##### Section 3.1.1 Pre-Application Conferences

A. Recommended

Before submitting an application for development approval that does not require a pre- submittal conference, it is recommended that a pre-application conference be scheduled with the appropriate department to discuss the procedures, standards and regulations required for development approval.

B. Required

A mandatory pre-application conference with the department shall be required for rezoning as any type of planned development, including a Traditional Neighborhood Development

##### Section 3.1.2 Application Requirements

All requests for development approvals shall submit a completed application providing all information required by the department consistent with the submittal calendar established by the department along with all fees established by Metro Council.

##### Section 3.1.3 Public Notice

**Table 3.A**  
**Summary of Notice Requirements**

Procedure	Published	Posted	Mailed	Mailed Notification Distance
Comprehensive Plan Map Amendment	X	X	X	300 ft.
Comprehensive Plan Text Amendment	X			
UDC Text Amendment	X			
Rezoning	X	X	X	300 ft.
Final Development Plan (Public Hearing)	X	X	X	300 ft.
Major Conditional Use Permit	X	X	X	300 ft.
Conditional Use Permit	X	X	X	300 ft.
Historic District/Landmark Designation	X	X	X	300 ft.
Certificate of Appropriateness (Public Hearing)	X	X	X	300 ft.
Certificate of Appropriateness (Staff)		X		
Revocation	X		X	Abutting property owners
Street Name Change	X		X	Abutting property owners
Downtown Demolition/Relocation	X	X	X	300 ft.

- A. Types of Notice Required  
Notice shall be required for applications for development approval as shown in Table 3.A, Summary of Notice Requirements.
- B. Cost of Notice  
The cost of notice requirements shall be paid by the applicant consistent with the fee schedule approved by the Metropolitan Council.
- C. Notice Requirements
  - 1. Published Notice
    - a. Generally  
Before the Planning Commission shall consider any development proposal requiring published notice, unless listed below, the proposal shall be advertised in accordance with law in the official journal of the City of Baton Rouge (the Parish of East Baton Rouge). An additional advertisement shall be inserted in suitable block ad form not less than two columns wide in a newspaper of general circulation published in the City of Baton Rouge three times. The first of which shall appear not less than ten days prior to the date set for the public hearing on the proposed amendment.
    - b. Exceptions
      - (1) Large Scale Comprehensive Plan Amendments  
In addition to the general requirements listed above, each large scale comprehensive plan amendment shall require the publication of a “display ad” at least ten days prior to the date of the Planning Commission public hearing. This ad shall be no less than one-quarter page in the official journal of the City of Baton Rouge and Parish of East Baton Rouge. Such ad shall not be placed in that portion of the newspaper where legal notice and classified advertisements appear. The headline in such advertisement shall be in a type no smaller than 18 point, and shall appear in substantially the following form:

#### NOTICE OF LAND USE CHANGE

It is proposed to change the Comprehensive Land Use and Development Plan “Comprehensive Land Use Plan” from [land use category] to [land use category] within the area shown on the map below. A public hearing on the proposal will be held by the Planning Commission on [date and time] and the Metropolitan Council on [date and time] at [meeting place].

Such advertisement shall contain a geographic location map at a scale approved by the Planning Commission staff which clearly indicates the area covered by the proposal. The location map shall include major street names as a means of identification of the area.

(2) Certificates of Appropriateness

Notice of the time and place of a scheduled public hearing on an application for a Certificate of Appropriateness shall be published in the official journal of the City of Baton Rouge at least ten days before such hearing.

2. Posted Notice

Before any public hearing on a development proposal requiring published notice other than those proposals initiated by the Planning Commission or the Metropolitan Council, the Planning Director shall post a sign on or adjacent to the property that is in the subject of the hearing. This sign shall be:

- a. Yellow for all items other than those requiring hearings before the Historic Preservation Commission, which shall be pink;
- b. A minimum size of 18 inches by 24 inches, and;
- c. Shall include the following information printed in a minimum 20 point font size:
  - (1) For zoning cases, the present zoning classification of the property and the zoning classification sought by the amendment;
  - (2) The date, time and place of the public hearing; and,
  - (3) The phone number and web site for the City-Parish Planning Commission.

Where more than one parcel or tract of land is involved in the same application, the sign shall be posted at a centrally located point; in addition, at least one sign shall be posted on each block on each street involved in the proposed amendment. If the property under consideration does not front on a public street, an additional sign must be posted at the nearest public street. Such signs shall be posted not less than 15 calendar days prior to the date of the public hearing.

3. Mailed Notice

A supplemental notice of the time and place of any required public hearing shall be mailed via regular mail from the Office of the Planning Commission not less than 15 days in advance of the hearing to all owners of real property within the area specified in Table 3.A, Summary of Notice Requirements. For the purpose of notice requirements, the names and addresses of such owners shall be deemed to be those on the current City/Parish Geographic Information System. Failure of owners to receive supplemental notice of hearing shall in no way affect the validity of the action taken.

**Section 3.1.4 Coordination with Others**

A. Central

The plans for all projects and developments to be constructed within the Central Community School District which require approval of the East Baton Rouge Planning Commission shall be submitted to the Central Planning and Zoning Commission within five days of submission of the plans to the East Baton Rouge Parish Planning Commission. The East Baton Rouge Parish Planning

Commission shall not act upon the proposed project or development until it has either received a recommendation from the Central Planning and Zoning Commission, or a period of 45 days has elapsed since submission to the Central Planning and Zoning Commission.

**B. Zachary**

The plans for all projects and developments to be constructed within the Zachary Community School District which require approval of the East Baton Rouge Planning Commission shall be submitted to the Zachary Planning and Zoning Commission within five days of submission of the plans to the East Baton Rouge Parish Planning Commission. The East Baton Rouge Parish Planning Commission shall not act upon the proposed project or development until it has either received a recommendation from the Zachary Planning and Zoning Commission, or a period of 45 days has elapsed since submission to the Zachary Planning and Zoning Commission.

**C. The Recreation and Parks Commission**

The plans for all projects and developments to be constructed within 1,000 feet of a Recreation and Park Commission for the Parish of East Baton Rouge (BREC) designated park shall be submitted to the BREC Planning and Engineering Office at least 30 days prior to Planning Commission action.

## **Section 3.2 Comprehensive Plan**

### **Section 3.2.1 Content**

- A. A comprehensive plan for the physical development of East Baton Rouge Parish and the City of Baton Rouge shall be adopted by the Planning Commission and Metropolitan Council. The plan shall include, but not be limited to, the following elements:
1. A future land-use element;
  2. A traffic circulation and mass-transit element;
  3. A wastewater, solid waste, and drainage element;
  4. A conservation and environmental resources element;
  5. A recreation and open space element;
  6. A housing element; and,
  7. A public services and facilities element.
- B. The several elements of the comprehensive plan shall be coordinated and be internally consistent. Each element shall include policy recommendations for its implementation and shall be implemented, in part, by the adoption and enforcement of appropriate regulations.

### **Section 3.2.2 Legal Effect of Comprehensive Plan.**

- A. Upon adoption of the comprehensive plan, no subdivision, street, park or public way, ground or space, drainage, building development or structure, whether publicly or privately owned which is in conflict with the comprehensive plan or the Unified Development Code shall be constructed or authorized by the appropriate department of the City-Parish government, until and unless the locations and extent thereof shall have been submitted to and approved by the Planning Commission.
- B. All land development regulations including zoning and map, subdivision regulations, roadway plan, and all public improvements, public facilities and all City-Parish regulatory actions relating to land use, subdivision and development approval shall be consistent with the comprehensive plan.

### **Section 3.2.3 Plan Amendments**

- A. Plan amendments shall follow the schedule of rezoning applications.
- B. Plan amendments shall be categorized as “large scale amendments,” or “small scale amendments” pursuant to the following criteria:
  - 1. A large scale amendment shall be any change involving more than five acres of land.
  - 2. A small scale amendment shall be any change other than a large scale amendment.
- C. Action by the Planning Director  
Upon receipt of a completed application for a change to the comprehensive plan, the Planning Director shall prepare a report showing that the following criteria were considered regarding a proposed change to the future land use map of the comprehensive plan:
  - 1. Whether the proposed change would be consistent with the vision, goals, objectives, action items, or policies of any adopted plans;
  - 2. Whether the proposed change would be compatible with the existing land use pattern and/or designated future land uses;
  - 3. Whether the proposed change would create substantial adverse impacts in the adjacent area or the city or parish in general;
  - 4. Whether the subject site is of adequate shape and size to accommodate the proposed change; and,
  - 5. Whether a change in conditions since the adoption of the plan has occurred or an error was made in the original designation of the property.
- D. Action by the Planning Commission  
The comprehensive plan, as adopted by the Metropolitan Council, may be amended only following preparation of a report by the Planning Director on the requested change and

consideration of the change in a public hearing by the Planning Commission. Planning Commission action on a plan amendment shall be by vote of a majority of the membership of the Commission.

E. Action by the Metropolitan Council

Following the Planning Commission action, the plan amendment shall be considered in a public hearing by the Metropolitan Council. Amendments to the comprehensive plan shall require a 2/3 vote of the Metropolitan Council in order to be approved.

### **Section 3.3 Amendments to the Unified Development Code**

#### **Section 3.3.1 Initiation**

Amendments to the Unified Development Code may be initiated by the Planning Commission or by the Metropolitan Council upon its own motion or upon petition.

#### **Section 3.3.2 Process**

- A. With the exception of changes related to Chapter 15, Floodways, Floodplains, Drainage, and Water Quality, all changes to the text of the Unified Development Code shall require a public hearing by and recommendation from the Planning Commission by majority vote and a public hearing and action by the Metropolitan Council following the receipt of a final report from the Planning Director on the merits of the amendment.
- B. The Metropolitan Council may amend Chapter 15, Floodways, Floodplains, Drainage, and Water Quality, of the Unified Development Code upon its own motion or upon petition without a recommendation from the Planning Commission.

### **Section 3.4 Zoning Changes**

#### **Section 3.4.1 Initiation**

The Metropolitan Council, the Planning Commission, or any citizen acting with the consent of the owner of the affected property may petition for a change to the official zoning map regarding a particular piece of property.

#### **Section 3.4.2 Action by the Planning Director**

Upon receipt of a completed application for a change of zoning, the Planning Director shall prepare a report showing that the proposed change is consistent with the comprehensive plan, and satisfies the technical requirements of the Unified Development Code. In addition, the report should illustrate that at least one of the following criteria were considered regarding the proposed change.

- A. The land use pattern or character of the area has changed to the extent that the existing zoning no longer allows reasonable use of the proponents' property and adjacent property. Factors to consider in making this determination include:
  - 1. The requested designation is the same as, or similar to that existing on properties next to, or across the street from the site under consideration;
  - 2. Consideration of unique or unusual physical or environmental limitations due to size, shape, topography, or related hazards or deficiencies;

3. Consideration of changes in land value, physical environment or economic aspects which tend to limit the usefulness of vacant land or buildings.
- B. The proposed zoning change, and the potential of a resulting land use change, will comply with the general public interest and welfare and will not create:
1. Undue congestion of streets and traffic access;
  2. Overcrowding of land or overburden on public facilities such as transportation, sewerage, drainage, schools, parks, and other public facilities;
  3. Land or building usage which is, or may become incompatible with existing character or usage of the neighborhood;
  4. An oversupply of types of land use or zoning in proportion to population, land use, and public facilities in the neighborhood.
- C. The proposed zoning change is in keeping with zoning law and precedent, in that:
1. It is not capricious or arbitrary in nature or intent;
  2. It does not create a monopoly, or limit the value or usefulness of neighboring properties;
  3. It does not adversely affect the reliance that neighboring property owners or occupants have placed upon existing zoning patterns;
  4. It does not create a spot zone, that is, an incompatible or unrelated use that would prevent the normal maintenance and enjoyment of adjacent properties.

#### **Section 3.4.3 Action by the Planning Commission**

Following receipt of the Planning Director's report, the Planning Commission shall hold a public hearing on the proposed change of zoning in order to make a recommendation to the Metropolitan Council. The Planning Commission, in its recommendations to the Metropolitan Council, may state its concurrence with, or rejection of, proponents' offers of proof of public hearings and may state, in its motion of recommendation to the Metropolitan Council, its position in relation to proponents' statements and the Planning Director's analysis; and such statements and analyses shall be forwarded to the Metropolitan Council along with the Planning Commission recommendations.

#### **Section 3.4.4 Action by the Metropolitan Council**

##### **A. Public Hearings**

Upon receipt of the Planning Commission's recommendation, the Metropolitan Council shall hold a public hearing on the proposed change in zoning, unless the Planning Commission recommends denial by a unanimous vote and the Metropolitan Council concurs, in which case the matter need not be introduced for public hearing. Any member of the Metropolitan Council may introduce an appeal of the rezoning decision of the Planning Commission at the Metropolitan Council meeting following the rezoning decision of the Planning Commission, failure to appeal will make the Planning Commission decision final. The matter shall not be introduced except by a majority vote

by the Metropolitan Council. If the Metropolitan Council introduces the appeal of the rezoning decision, the item shall be heard at the next regularly scheduled Metropolitan Council Zoning Meeting. Failure to introduce the rezoning will make the Planning Commission decision final.

**B. Vote of the Metropolitan Council**

1. Items with a Favorable Recommendation from the Planning Commission  
Items with a favorable recommendation from the Planning Commission shall require a majority vote by the Metropolitan Council in order to be approved.
2. Items with an Unfavorable Recommendation from the Planning Commission  
Any item that has failed to receive the approval of the Planning Commission shall not be passed by the Metropolitan Council except by a favorable vote of 2/3 of the entire membership of the Metropolitan Council.
3. Zoning Changes without the Consent of the Property Owner  
Any proposed change to the zoning designation of privately-owned real property initiated by motion of Metropolitan Council shall require a favorable vote by 2/3 of the entire membership of the Metropolitan Council, unless the proposed amendment has the written consent of the property owner(s) indicating support for the proposed change. This provision shall not apply to any publicly-owned lands.

**Section 3.4.5 Withdrawal of Applications**

- A. Any application which the applicant wishes to withdraw from Planning Commission public hearing must be withdrawn by written notice to the Planning Director prior to 5:00 p.m. on the day of the Planning Commission public hearing, and following such withdrawal shall not be accepted for re-advertisement for six months, except on majority vote by the Planning Commission.
- B. When application is duly advertised and not withdrawn as set forth above, a public hearing shall be held by the Planning Commission and a report forwarded to the Metropolitan Council along with any applicable petition received, it may be withdrawn from Metropolitan Council action only by written request to the Council Administrator before noon on the Monday preceding the public hearing. Any such application withdrawn in this manner shall not be accepted for re-advertising for one year.
- C. Any rezoning application, withdrawn after Planning Commission action but prior to Metropolitan Council action, may be re-filed with the Planning Commission in less than one year provided that the Planning Commission approves a written request showing there is evidence not previously considered or extenuating circumstances.

**Section 3.4.6 Denial of Applications**

No application for a change to the official zoning map regarding a particular piece of property shall be accepted by the Planning Director unless it has been one year or longer since the first denial of a similar application to rezone the same piece of property, and two years or longer since the second and subsequent denial of a similar petition to rezone the property. The Planning Director may accept and process an application for a zoning change on the same property, without regard to the time restrictions identified above, if he determines that the new application is substantially different from



the previously denied application(s), meaning that the major issues and concerns raised in the previous denial have been addressed.

## **Section 3.5 Conditional Use Permits**

### **Section 3.5.1 Conditional Uses Defined**

Conditional uses are those uses that are generally compatible with the uses permitted in a zoning district, but require individual review of their location, design, and intensity in order to ensure their appropriateness on any particular parcel of land and the compatibility of the use with adjacent uses. Conditional use permits may be granted for those conditional uses enumerated in each of the zoning districts established in this ordinance with the standards and procedures of this section and the standards established for each conditional use in the district regulations.

### **Section 3.5.2 Types**

#### **A. Conditional Use Permits**

These are uses that may only be allowed in a designated zoning district if approved through the granting of a conditional use permit by the Planning Commission. Such uses are subject to all other applicable requirements of this ordinance, as well as the limiting conditions associated with the use in the zoning district.

#### **B. Major Conditional Use Permits**

These are uses that may only be allowed in the designated zoning district if approved through the granting of a conditional use permit by the Metropolitan Council following a recommendation from the Planning Commission. Such uses are subject to all other applicable requirements of this ordinance, as well as any limiting conditions associated with the zoning district.

### **Section 3.5.3 Standards Applicable to All Conditional Uses.**

A conditional use permit shall be granted only if the requested use is deemed to be in the public interest and the applicant demonstrates that all specific conditions for each use are met and:

- A. The design of the proposed development minimizes adverse effects, including visual impacts, of the proposed use on adjacent properties;
- B. The proposed use will not unduly burden essential public infrastructure and services including roadways, existing parking spaces, police and fire protection facilities, drainage systems, refuse disposal, water and sewers, and schools; and
- C. The proposed use will not allow land or building usage that is incompatible with the existing character or usage of the neighborhood.

### **Section 3.5.4 Issuance of a Conditional Use Permit**

Conditional uses shall be reviewed and approved or denied in accordance with the provisions of this section.

- A. A written application for a conditional use permit shall be submitted to the Office of the Planning Commission with the fee established by the Metropolitan Council. A conditional use permit application shall include a detailed site plan including all items indicated on the site plan checklist.

- B. The Planning Director shall prepare a report showing that the proposed conditional use is consistent with the comprehensive plan, and satisfies the technical requirements of the Unified Development Code.
- C. The Planning Commission shall conduct a public hearing on all conditional use permits. In addition to the required hearing by the Planning Commission, the Metropolitan Council shall conduct a public hearing on major conditional use permits.
- D. Notwithstanding any other provision of this ordinance, at the Metropolitan Council meeting following the decision of the Planning Commission any member of the Metropolitan Council may introduce an appeal of the decision of the Planning Commission, failure to appeal will make the Planning Commission decision final. If the Metropolitan Council introduces the appeal of the conditional use, the item shall be heard at the next regularly scheduled Metropolitan Council zoning meeting. Failure to introduce an appeal of the conditional use will make the Planning Commission decision final.
- E. No conditional use permit for construction or license for occupation shall be issued by the City-Parish until all appeal periods have expired and copies of the approved site plan required as part of the permit have been distributed.

#### **Section 3.5.5 Adjustments to a Conditional Use Permit Site Plan.**

Following approval of a conditional use permit, adjustments to the site plan may be allowed as follows:

- A. The Planning Director may authorize adjustments to an approved conditional use site plan when such adjustments appear necessary in light of technical considerations discovered during actual construction that are consistent with all requirements of the zoning and do not violate any stipulations associated with the issuance of the conditional use Permit. Such adjustments shall be limited to the following:
  - 1. Altering the location of any structure provided that the structure is not moved within ten feet of the required setbacks to an abutting property; and,
  - 2. Altering the location of a parking area or driveway to be within five feet of a required setback to an abutting property.
- B. Any changes to an approved conditional use site plan other than those listed above shall be considered a substantial change and shall require the approval of the Planning Commission following the same process as a new Conditional Use Permit.

#### **Section 3.5.6 Maintaining Validity of a Conditional Use Permit**

- A. Initiation of Construction  
Within three years of conditional use approval, construction shall commence in accordance with the approved conditional use permit site plan. Failure to commence construction within that period shall automatically render the conditional use permit null and void.

**B. Cessation of a Conditional Use**

A permit for a conditional use authorizes only the particular use for which it was issued and such permit shall automatically expire and cease to be of any force or effect if such use shall, for any reason, be discontinued for a period of one year. If a building, the use of which is conditional, is damaged or destroyed to an extent of more than 60 percent of its fair market value, by fire, explosion, act of God, or the public enemy, then any restoration shall follow the time limits for construction of a conditional use.

**Section 3.5.7 Effect of Denial of a Conditional Use Permit**

Any citizen may petition for a conditional use permit, provided that it has been one year or longer since the first denial of a petition to obtain a conditional use permit on a particular piece of property, and two years or longer since the second and subsequent denials of a petition to obtain a conditional use permit on a particular piece of property.

**Section 3.5.8 Revocation of a Conditional Use Permit**

In addition to any other penalties and remedies for violation of this ordinance, any conditional use approval may be revoked for violation of any condition imposed upon such approval. Upon receipt of a report by the Building Official or Planning Director identifying a violation of a conditional use, the Planning Commission shall hold a public hearing to revoke the conditional use permit. Following the hearing, the operator of the conditional use shall be given a reasonable time limit of at least 25 days to correct all violations. A report verifying the violation(s) have been remedied shall be submitted to the Office of the Planning Commission at least five days before the expiration of the time limit. Failure to remedy the violation within the time limit given shall result in the revocation of the conditional use permit. Any party may appeal a decision by the Planning Commission to revoke a conditional use permit to the Metropolitan Council.

**Section 3.6 Revocation or Relocation of Streets, Alleys, Rights-of-Way, or Servitudes Dedicated to Public Use**

**Section 3.6.1 Application**

At the time of filing application, the applicant shall submit letters of no objection to the revocation or relocation from utility providers and appropriate City-Parish departments.

**Section 3.6.2 Action by the Planning Director**

Upon receipt of a completed application for a revocation or relocation of a right-of-way or servitude dedicated to public use, the Planning Director shall prepare a report showing that the revocation or relocation will have no adverse impact on adjoining properties. If the applicant did not submit letters of no objection from utility providers, the Department of Transportation and Drainage, and the Department of Development at the time of the application, no report may be provided until such letters have been obtained.

**Section 3.6.3 Action by the Planning Commission**

The Planning Commission shall consider the propriety and feasibility of the revocation or relocation in a public hearing and submit its recommendation to the Metropolitan Council within 60 days after the application is determined to be complete; provided that, in those instances where the revocation or relocation will not have any effect on any property other than that of the applicant, no hearing before the Planning Commission shall be required, but the report of the Planning Director shall be made to the Metropolitan Council.

### **Section 3.6.3 Action by Council**

After receipt of a report, the Metropolitan Council may introduce an ordinance revoking or relocating the street, alley, right-of-way or servitude to be heard at the next regular meeting of the Metropolitan Council for a public hearing called and advertised. At the time of the hearing, the Metropolitan Council may adopt or reject the ordinance.

### **Section 3.6.4 Title Not Warranted**

These provisions do not give any person the right to have a street, alley, right-of-way, or servitude revoked and the City-Parish does not warrant clear and merchantable title to any property over which the street, alley, right-of-way or servitude to be revoked or relocated lies.

## **Section 3.7 Designation of Local Historic Districts and Landmarks**

### **Section 3.7.1 Criteria for Designation**

A local historic district or landmark should exhibit one or more of the following characteristics:

#### **A. Historic or Cultural Significance**

The site proposed for designation should:

1. Have character, interest or value as part of the development, heritage, or cultural characteristics of East Baton Rouge Parish, Louisiana, or the United States;
2. Be the site of an historic event;
3. Be identified with a person or group who influenced society; or,
4. Exemplify the cultural, archaeological, economic, social, political, or historic heritage of the parish and its communities.

#### **B. Architectural and Design Significance**

The site proposed for designation should:

1. Embody the distinctive characteristics of a type, period, theme, method of construction or indigenous materials and craftsmanship;
2. Represent the work of a master architect, builder, engineer or that of significant artisans;
3. Possess high artistic values and design integrity;
4. Be a distinguishable entity in that it has not been altered to the extent that its original purpose or use is indiscernible;
5. Be an established and familiar visual feature of the neighborhood and community or a place of natural or aesthetic interest that contributes to the cultural or historical development of the City-Parish, State or region; or,

6. Be an outstanding example of a building, structure, object, or work of art representative of its era, or one of the few remaining examples of past architectural styles.

### **Section 3.7.2 Process for Designation**

#### **A. Application**

##### **1. Historic Districts**

An historical society, neighborhood association, group of property owners, or the Mayor-President and the Metropolitan Council may apply for designation.

##### **2. Historic Landmarks**

An historical society, property owner, or the Mayor-President and the Metropolitan Council may apply for designation.

#### **B. Building Survey**

1. As part of the application, applicants shall provide a building survey that can be used to inform the public and to document and evaluate archaeological and historic sites for the purpose of understanding the architectural or cultural significance of all features within locally designated districts/landmarks. The survey shall follow the guidelines for nominating property to the National Register of Historic Places and shall include:

- a. A physical description of the proposed district, including clearly defined boundaries for the proposed district, or the landmark, and,
- b. A description of its historic significance.

2. All structures, buildings, objects, works of art and cultural landscapes in the proposed district/landmark shall be surveyed and evaluated. Individual properties within historic districts shall be classified as:

##### **a. Contributing Historic Element**

A building that is fifty years old or more that is culturally significant or a worthy representative example of its period style of architecture.

##### **b. Non-Contributing Element**

A building that does not meet the criteria for a Contributing Historic Element listed above.

3. The building survey shall be submitted to the State Historic Preservation Office for review and comment prior to any further action on the application.

#### **C. Community Survey for Local Historic District Nominations**

Each property owner within the area proposed for designation as a local historic district shall be sent a questionnaire, which may be returned to the HPC, to ascertain the degree of interest in and support for the proposed designation by all property owners directly affected by the proposal. Such questionnaire shall be used for information purposes only and shall not be binding on the HPC, the Planning Commission or the Metropolitan Council. All questionnaires shall be mailed to

the last known owner of the property, as shown on the most recent tax digest during the designation process and at least thirty days prior to any adoption public hearings.

#### D. Adoption Procedure

##### 1. Historic Preservation Commission Action

Following receipt of the State Historic Preservation Office comments on the Building Survey and the results of the Community Survey, the HPC shall consider the merits of designation in accordance with the provisions of this ordinance at a public hearing and shall recommend approval, approval with conditions, or denial of any request in a timely manner.

##### 2. Planning Commission Action

Following receipt of the recommendation of the HPC, the Planning Commission shall hold a public hearing on the designation in the same manner as a rezoning.

##### 3. Metropolitan Council Action

The Metropolitan Council shall make the final determination regarding a designation, considering the recommendations of the HPC and the Planning Commission, at a public hearing in the same manner as a rezoning.

##### 4. Ordinance Requirements

Any ordinance designating a local historic district or landmark shall describe the exterior boundaries of the district or landmark to be designated, and establish the requirement that a Certificate of Appropriateness (COA) be obtained from the HPC prior to any change to the exterior of any part of a designated property that is visible from a public street.

##### 5. Notification of Adoption of Ordinance for Designation

Within 30 days following the adoption of the ordinance for designation by the Metropolitan Council, the owners of each designated historic property shall be given written notification of such designation by the HPC; which notice shall notify those owners of the requirement to obtain Certificates of Appropriateness.

##### 6. Moratorium on Applications for Alterations or Demolitions

If an ordinance for designation has been recommended by the HPC, the HPC shall have the power to require that the Building Official delay an application for alteration or demolition for properties under consideration for up to 120 days. Any building permit issued prior to the recommendation of an ordinance for designation may continue until its expiration.

### **Section 3.7.3 Design Guidelines for Local Districts and Landmarks**

#### A. Intent

Design Guidelines shall identify the characteristic features of the district or landmark to be used in determining the compatibility of new construction or alterations with the character and architecture of the area. It is the responsibility of the HPC to ensure that changes in the local historic districts/landmarks reflect the appropriate East Baton Rouge Local Historic District/Landmark Guidelines.

B. Limitation on Use

Design Guidelines shall not be considered regulatory. They are intended to provide design guidance about elements and materials without compromising the character of structures, buildings, objects, or works of art within a local historic district.

C. Development

1. The HPC, working with neighborhood residents, shall draft Design Guidelines consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties after designation of a district or landmark.
2. The HPC shall hold a public hearing in order to receive comments on the proposed Design Guidelines and, at the conclusion of that hearing, shall recommend to the Planning Commission their approval, approval with changes, or may defer action, determining additional work is necessary.
3. After receiving the HPC's recommendation, the Planning Commission shall consider the proposed Design Guidelines at a public hearing. Following the public hearing, the Planning Commission may approve the Design Guidelines, approve them with changes, or refer them back to the HPC for additional work.
4. Notice of all hearings on the Design Guidelines shall be published in at least three consecutive issues in the official journal and/or in a newspaper of general circulation within Baton Rouge. All such notices shall be published not less than ten nor more than 20 days prior to the date set for the public hearing.
5. All amendments to the Design Guidelines shall follow the procedure set forth above.

**Section 3.7.4 Certificates of Appropriateness**

A. When Required

A COA shall be required for any exterior change that is visible from a public street to any part of a private property within a locally designated historic district or landmark, unless the change is determined to be ordinary maintenance and repair.

B. Approval Authority

Depending on the nature of the work proposed, a COA may be issued by the by the Planning Director through a staff-level approval process, or by the HPC through a public hearing process.

C. Submittal Requirements

Applications shall be submitted along with required documentation identified below to Planning Commission office.

1. New Construction, Additions, and Alterations

Such drawings, photographs, or plans as may be required by the Planning Director to permit determination of conformity with the applicable Design Guidelines.

2. Demolition or Relocation

Unless the request for demolition is made by the City-Parish, in which case only the records depicting the current condition of the building and the Building Official's determination that the structure is unsafe are required, an applicant shall provide the following material:

- a. Records depicting the original construction of the structure, including drawings, pictures, and/or written descriptions, if available;
- b. Records depicting the current condition of the structure, including drawings, pictures, and/or written descriptions;
- c. Description of the proposed use of the property after demolition/relocation of structure;
- d. The current fair market value of the structure and property as determined by an independent licensed appraiser or recent sales documents; and,
- e. A report regarding the nature, imminence, and severity of the threat, the cost of restoration of the structure, and the feasibility of restoration of the structure.

D. Criteria for Approval

The decision to approve a COA shall be based on the application meeting the following criteria:

1. New construction, Additions, and Alterations

The proposed work is consistent with the Historic District/Landmark Design Guidelines applicable to the subject property.

2. Demolition or Relocation

The HPC may approve a COA for demolition or relocation if the application satisfies at least one of the following criteria:

- a. The structure, building, object or work of art poses an imminent threat to public health or safety;
- b. No economically viable use of the property exists; or,
- c. The cost to repair the structure exceeds its market value.



## E. Process

### 1. Staff Level

- a. Certificates of Appropriateness for those changes that do not require building permits may be approved by the Planning Director without a public hearing and shall not be subject to application deadlines provided that no work is performed prior to the issuance of the COA except as has been authorized by the Planning Director as an emergency repair.
- b. Upon receipt of a staff level application, the Planning Commission staff shall notify the HPC with a request to provide comment within three working days of receipt of notification.
- c. Within 14 working days of receipt of an application, provided that no objections are raised by HPC members during the comment period, the Planning Director may approve, modify or deny such application. If the Planning Director fails to render a decision within this period or if any objections are raised by an HPC member during the comment period, the application shall be heard by the HPC at its next scheduled meeting.
- d. The applicant for a staff level COA that is denied may appeal such denial to the full HPC for consideration at a public hearing by filing an appeal in writing to the office of the Planning Commission within ten working days from receipt of the denial.
- e. At the monthly HPC meeting the Planning Commission staff shall give a report regarding all staff level applications reviewed.

### 2. Public Hearing Level

- a. Any application for an exterior change that will require a building permit, including all applications for demolition and relocation as well as any application seeking approval for work done without first obtaining a COA, may only be approved by the HPC after a public hearing.
- b. The HPC shall approve the application with or without conditions and issue a COA if it finds that the proposed work is consistent with the approval criteria established in this ordinance.
- c. When the HPC acts upon an application, it shall state its reasons for its decision and shall transmit a record of such actions and reasons, in writing, to the applicant.

- d. In cases where the application covers work that would require the issuance of a building permit, the rejection of the application for a COA by the HPC shall be binding upon the Building Official or other administrative officer charged with issuing building permits and, in such a case, no building permit shall be issued.
  - e. Failure by the HPC to render a decision within 60 days of the date of the first hearing by the HPC shall be taken to constitute approval of the application by the HPC, unless the applicant has requested that the commission delay its decision beyond the 60 day period otherwise required.
  - f. If the HPC approves an application over which objections are raised during the review process, whether by an HPC member or the public, the COA shall not be issued for a period of 10 calendar days subsequent to the Commission's decision. If during that period an appeal is made to the Metropolitan Council, the decision of the Commission shall automatically be stayed pending Metropolitan Council review.
  - g. Approved COAs may be revised by the Planning Director if the revision meets the requirements of a staff level application. If the proposed revision requires a building permit it shall be reviewed according to the procedure for public hearing applications.
  - h. **Effect of Denial of an Application for Demolition and Relocation**  
If a COA for demolition/relocation is denied, no further applications may be considered for the subject matter of the denied application for one year from the date of the final decision unless the HPC, by majority vote, waives the time limitation, finding that there are changed circumstances sufficient to warrant a new hearing.
  - i. **Appeals**
    - (1) Any person adversely affected by any determination made by the HPC relative to the issuance or denial of a public hearing COA may appeal such determination to the Metropolitan Council; the appeal must be filed with the Council Administrator's Office within ten calendar days of the HPC decision and shall be considered at the first Council meeting after the appeal has been received. The Metropolitan Council may approve, modify, or reject the determination made by the HPC.
    - (2) Appeals of decisions of the Metropolitan Council relative to the issuance of COAs may be taken to the District Court of the City-Parish, in the manner provided by law.
- F. **Period of Validity**  
A COA shall become void unless the approved work is commenced within 12 months of the date of issuance, but may be extended by the Planning Director in consultation with the HPC chairman for up to two one-year periods for good cause shown.

G. Relation to Other Ordinances

The issuance of a COA shall not relieve an applicant for a companion building permit, special use permit, variance, or other authorization from compliance with any other requirement or provision of the laws of the city concerning zoning, construction, repair, or demolition. In all such cases, applicants are required to obtain a COA prior to obtaining other required approvals as other agencies will require the decision of the HPC in order to make their subsequent decisions.

H. Undue Hardship

Where, by reason of unusual circumstances, the strict application of any provision of the regulations governing Certificates of Approval would result in exceptional practical difficulty or undue hardship upon any owner of a specific property, the HPC, in acting on applications, shall have the power to vary or modify strict adherence to these provisions, or to interpret their meaning, so as to relieve such difficulty or hardship; provided such modifications or interpretations remain in harmony with the general purpose and intent of the provisions of the regulations, so that the architectural or historical integrity, or character of the property shall be conserved, and substantial justice done. In granting such modifications, the HPC may impose reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this Ordinance.

I. Exceptions

1. Temporary fences on private property shall not require a COA provided that the temporary fence is no more than five feet in height and is in place no more than 30 days. In no instance shall the fencing be within the public right-of-way or restrict access along streets or sidewalks.
2. Ordinary maintenance or repair shall not require a COA.
3. The Planning Director may authorize work which would require a COA and is deemed necessary on an emergency basis for the preservation of a structure. Such authorization shall not constitute issuance of a COA, and the property owner must apply for a COA in a timely manner after such work is commenced. Failure to apply for a COA within ten working days of the Planning Director's authorization for such work shall constitute a violation of this ordinance.

**Section 3.7.5 Demolition by Neglect**

A. Prevention

1. All locally designated historic landmarks and all contributing structures identified by the official historic survey located in a local historic district, shall be preserved against decay, deterioration, and kept free from certain structural defects by the owner thereof or such person, persons, or entities who may have custody or control thereof.

2. Demolition by neglect shall mean neglect in maintaining, repairing, or securing a historic landmark or a contributing structure in a local historic district that results in substantial deterioration of an exterior feature of the building or structure or the loss of structural integrity of the building or structure that results in deterioration of the structure and threatens the preservation of the structure.
3. The HPC shall ensure that contributing structures located within the local historic district and landmarks designated by the Commission are not allowed to be demolished through neglect of the owner. However, if the property owner has submitted a COA application, then the HPC shall not initiate demolition by neglect proceedings until the COA is denied and all appeals have been exhausted.

B. Standards

The exterior features of any building or structure found to have defects (as outlined below) located within a local historic district shall be preserved by the owner or such other person who may have legal possession, custody, and control thereof against decay and deterioration and kept free from structural defects. The owner, or other person having such legal possession, custody, and control, shall upon written request by the City stabilize or repair such exterior features if they are found to be deteriorating, or if their condition is contributing to deterioration of the property or the district, including but not limited to any of the following defects:

1. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling where such condition threatens the structural integrity of the structure;
2. Deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling where such condition threatens the structural integrity of the structure;
3. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling where such condition threatens the structural integrity of the chimney;
4. Deterioration or crumbling of exterior plasters or mortars where there is evidence that such condition has allowed deterioration of structural elements that threaten the structure's integrity;
5. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors where there is evidence that such condition has allowed deterioration of structural elements that threaten the structure's integrity;
6. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering where

- there is evidence that such condition has allowed deterioration of structural elements that threaten the structure's integrity;
7. Rotting, holes, and other forms of decay where there is evidence that such condition has allowed deterioration of structural elements that threaten the structure's integrity;
  8. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling where there is the possibility that the architectural details will be totally lost or destroyed; or,
  9. Deterioration of contributing accessory structures.

C. Procedure for Enforcement

1. The HPC may file a petition listing specific defects with the Department of Development indicating that a building's condition falls under the Commission's criteria of Demolition by Neglect. Whenever a petition is filed with the Department of Development, a preliminary inspection shall be performed within seven days of the date of the petition.
2. To proceed with the citation process the HPC must vote by a majority to make a preliminary finding of Demolition by Neglect and requesting an inspection. If a preliminary determination is made by the HPC, the owner shall be notified by certified mail of the defects in the building. The owner shall be given 30 days in which to respond to the preliminary determination or obtain a COA for the corrective work. If a COA is issued at this point, it will detail the specific work which is necessary to correct the Demolition by Neglect conditions, and a time limit for work to begin and be completed shall be set. If the applicant deems that the time limit is unreasonable, they will provide details regarding the unreasonableness to the HPC which will subsequently by majority vote consider extending the time. If the preliminary investigation does not substantiate the petition, the petition shall be considered resolved and no action will be taken.
3. If the owner of the property receives the letter regarding the preliminary determination, but fails to respond, the matter shall be referred to the HPC for a citation hearing. If the owner fails to receive the letter regarding the preliminary determination after two attempts, the building shall be posted with a notice of the violation in accordance with the provisions of the Ordinance, and a public hearing on the citation shall be scheduled.
4. At the public hearing the HPC may issue a citation to the owner of the property for failure to correct the Demolition by Neglect conditions. The citation shall be made by a vote of the majority of the HPC on a motion recognizing the condition of the building and the owner's failure to correct the defects. The owner shall be invited to the public hearing to address the

HPC's concerns and to show cause why a citation should not be issued. The HPC may defer the matter to give the owner more time either to correct the deficiencies, make a proposal for repairs, or perhaps sell the property.

5. If the owner is cited for the condition of Demolition by Neglect of the property, he/she shall be given until the next regularly scheduled HPC meeting to respond with a proposal to correct the defects.
6. If a COA is issued at this point, it shall be worded to place specific constraints on the owner for initiating and completing the work.
7. Any person adversely affected by a determination that a structure is being demolished by neglect made by the HPC may appeal such determination to the Metropolitan Council. The appeal must be filed with the Council Administrator's Office within ten days after notification is sent. The Metropolitan Council may approve, modify, or reject the determination made by the HPC by a favorable vote of 2/3 of the entire membership of the Metropolitan Council.

#### **Section 3.7.6 Violations**

- A. Any person who violates this section, with the exception of unauthorized tree cutting, damaging or removal and demolitions, shall be cited for a separate offense for each day during which the violation is continued, from the first day the unlawful act was committed until either a COA is obtained or the property is restored to the condition it was in immediately prior to the violation.
- B. **Removing, Cutting, Damaging or Destroying Trees**  
Any owner, agent, lessee, or other person acting for or in conjunction with him/her, who directly or indirectly cuts, fells, damages, destroys or removes any tree or who applies or causes to be applied a substance that damages or destroys a tree, without first going through the process to obtain approval for a COA, shall be in violation of this section. The provisions of this section shall not apply to an act of God. The provisions of this section shall not apply to the cutting, felling, destroying or removal of a tree by recognized employees or agents of the City-Parish acting pursuant to authority.
- C. **Stopping Work Commenced Without Permit**  
A stop work order shall be issued by the Building Official on work not in compliance with an approved COA. Any such work shall be considered a violation of this chapter subject to any and all appropriate fines and penalties.
- D. **Injunctions**  
Whenever any person has engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of this ordinance, the HPC, through the Parish Attorney's office, may make an application to the appropriate court for an order enjoining such act or practice, or

requiring such person to refrain from such prospective violation or to remedy such violation by restoring the affected property to its previous condition. Upon a showing by the HPC or the city that such person has engaged or is about to engage in such act or practice, a permanent or temporary injunction, temporary restraining order, or other appropriate order shall be granted without bond.

#### **E. Penalty Provisions**

The following penalty provisions shall be applied by the appropriate court in response to applications filed by the Parish Attorney relative to the enforcement of a violation of this chapter.

1. Any owner, agent, lessee, or other person acting for or in conjunction with him/her, who, with the exception of unauthorized tree cutting, damaging or removal and demolitions, violates the ordinance or law or rules, regulations, or decision of the HPC, shall for each offense be fined not less than \$100 dollars, and each day that a violation continues constitutes a separate offense.
2. Any owner, agent, lessee, or other person acting for or in conjunction with him/her, who cuts, fells, damages, destroys or removes any tree without having been issued a COA, shall be fined in an amount equal to one and one-half times the monetary value of the tree damaged, destroyed or removed, based on “diameter at breast height” (dbh) calculated from the stump, and applying the most current standards of the City Tree and Landscape Manager and based upon the historical significance of the tree as designated in the historic building survey of the district. If the violator has ground the stump and therefore prevented a dbh calculation, then the penalty shall be three times the monetary value of the tree. Trees that have been damaged or removed shall be replaced with trees of a species approved by the Director of Development, and such replacement cost shall be paid by the violator.
3. Any owner, agent, lessee, or other person acting for, or in conjunction with, him, who demolishes a structure or edifice without having been issued a COA, shall be fined a single fine of not less than \$5,000 nor more than \$100,000 based upon the historical significance of the structure or edifice as designated in the historic building survey of the district.

### **Section 3.8 Demolition and Relocation of Historic Buildings in the Downtown Character Area**

#### **Section 3.8.1 Unlawful Demolition or Relocation of Buildings**

Approval from the HPC shall be obtained before demolition or relocation of any building more than 50 years old within the Downtown Character Area and outside of the boundaries of a local historic district.

#### **Section 3.8.2 Submittal Requirements**

Unless the request for demolition is made by the City-Parish, in which case only the records depicting the current condition of the building and the Building Official's determination that the structure is unsafe are required, an applicant shall provide the following material:

- A. Records depicting the original construction of the structure, including drawings, pictures, and/or written descriptions, if available;
- B. Records depicting the current condition of the structure, including drawings, pictures, and/or written descriptions;
- C. Description of the proposed use of the property after demolition/relocation of structure;
- D. The current fair market value of the structure and property as determined by an independent licensed appraiser or recent sale documents; and,
- E. A report regarding the nature, imminence, and severity of the threat, the cost of restoration of the structure, and the feasibility of restoration of the structure.

### **Section 3.8.3 Criteria for Approval**

The HPC, after receipt of a report from the Planning Director, may approve, approve with stipulations, or deny a request to demolish or relocate a building within the Downtown Character Area that is more than 50 years old if the application satisfies at least one of the following criteria:

- A. The building poses an imminent threat to public health or safety;
- B. No economically viable use of the property exists; or,
- C. The cost to repair the structure exceeds its market value.

### **Section 3.8.4 Appeals**

- A. Decisions of the Historic Preservation Commission  
Any person adversely affected by any determination made by the HPC relative to the approval or denial of a demolition or relocation application in the Downtown Character Area may appeal such determination to the Metropolitan Council. The appeal must be filed with the Council Administrator's Office within ten days after HPC decision. The Metropolitan Council may approve, modify, or reject the determination made by the HPC.
- B. Appeals of the Metropolitan Council  
Appeals from decisions of the Metropolitan Council made pursuant to this section may be taken to the District Court of the City-Parish, in the manner provided by law.

## **Section 3.9 Land Clearing**

### **Section 3.9.1 Site Clearing Permits**

All activities related to land disturbance that are not associated with agricultural activities or commercial timber harvesting shall require a site clearing permit. Prior to disturbance of any development or redevelopment of a lot or parcel of land, excluding individual existing residential lots



of less than five acres in a recognized subdivision, a site clearing permit for such activity shall be obtained from the Department of Development.

### Section 3.9.2 Permit Requirements

Before obtaining a Site Clearing Permit the following material related to the site must be submitted to the Department of Development:

- A. A current aerial photo and topographical map;
- B. Existing hydrology;
- C. Existing vegetation, specifically identifying and locating the tree species described in Table 3.B, Significant Tree Species, with a dbh of ten inches or greater.

**TABLE 3.B**  
**Significant Tree Species**

Scientific Name	Common Name
<i>Quercus alba</i>	White Oak
<i>Quercus falcata</i>	Red Oak
<i>Q. falcata</i> var. <i>pagodifolia</i>	Cherrybark Oak
<i>Quercus lyrata</i>	Overcup Oak
<i>Quercus michauxii</i>	Cow Oak
<i>Quercus nuttallii</i>	Nuttall Oak
<i>Quercus phellos</i>	Willow Oak
<i>Quercus shumardii</i>	Shumard Oak
<i>Quercus virginiana</i>	Live Oak
<i>Taxodium ascendens</i>	Pond Cypress
<i>Taxodium distichum</i>	Bald Cypress
<i>Ulmus americana</i>	American Elm
<i>Ulmus alata</i>	Winged Elm

- D. Environmentally sensitive areas onsite;
- E. A plan of conceptual intent for use after clearing, including the proposed site plan after clearing;
- F. Limits of Construction (as defined by the Unified Development Code) shall be drafted and shall only encompass the proposed areas of improvement;
- G. Limits of Clearing (as defined by the Unified Development Code);
- H. Stormwater Pollution Prevention Plan (SWPPP) for clearing activities; and
- I. Start and end date of clearing activities.

**Section 3.9.3 Limits of Clearing**

All clearing should occur only within the limits of clearing shown on the plans. Additional area may be cleared for construction staging during the clearing, but this area may not exceed ten percent of the total area being cleared.

**Section 3.9.4 Environmentally Sensitive Areas**

Environmentally sensitive areas shall not be cleared unless the applicant can show there is no practicable alternative to the clearing of these areas on the site. An Environmental Protection Area "404" Permit shall mitigate this requirement for federally recognized wetlands.

**Section 3.9.5 Stormwater Prevention Plan**

Prior to the commencement of clearing activities, the SWPPP must be approved. The SWPPP shall be implemented throughout the clearing process until the site is stabilized.

**Section 3.9.6 Post Clearance Soil Stabilization**

All cleared areas shall have soil stabilization methods instituted within 14 days of clearing. If construction ceases for a period of 14 days or more, the land shall be stabilized by the fourteenth day.